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8
 IN THE UNITED STATES DISTRICT COURT
 9
 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 10
 SAN FRANCISCO DIVISION

MAR-NIQUE SIMON,	Petitioner,
v.	
DOMINGO URIBE,¹ Warden,	Respondent.

13 C 09-05859 WHA (PR)

14 **JOINT STATEMENT, STIPULATION,**
AND [PROPOSED] ORDER
REGARDING THIS COURT'S
CONTINUING JURISDICTION OVER
FEDERAL HABEAS PETITION AND
RETRACTION OF MOTION TO
WITHDRAW AS COUNSEL

19
 20 On November 13, 2025, this Court held a hearing with counsel for both parties concerning
 21 a motion to withdraw as counsel filed by petitioner's counsel, Mr. Tamor. Later that day, the
 22 Court issued an order setting forth certain triggering dates and tasks for counsel depending on Mr.
 23 Tamor's decision as to whether it would be proper for him to remain as counsel for petitioner.
 24 Dkt. No. 217. The parties have met and conferred, and Mr. Tamor has indicated that he decided it
 25 would be proper for him to remain as counsel for petitioner. The parties therefore agree and
 26 stipulate to the following:

27 ¹ Petitioner is currently incarcerated at California State Prison, Sacramento, and is in the
 28 custody of Warden Jason Schultz. We therefore request that Warden Schultz be substituted for
 Warden Uribe as the respondent in this case.

- 1 1. On December 11, 2003, petitioner pleaded no contest to charges of attempted murder
 2 and second degree robbery, and admitted firearm and great bodily injury enhancements,
 3 in Alameda County Superior Court case number 145604. On March 1, 2004, the trial
 4 court sentenced petitioner to twenty years in state prison.
- 5 2. On December 15, 2009, petitioner filed a petition for writ of habeas corpus in this
 6 action challenging his state judgment in case number 145604. At the time petitioner
 7 filed his federal petition, he was in state prison serving his twenty-year sentence on the
 8 underlying state judgment he was challenging. He therefore met the “in custody”
 9 requirement for filing a federal habeas petition challenging his underlying state
 10 judgment. *Maleng v. Cook*, 490 U.S. 488, 490-91 (1989) (per curiam); *Garding v.*
 11 *Montana Dep’t of Corr.*, 105 F.4th 1247, 1256 (9th Cir. 2024).
- 12 3. On December 22, 2019, petitioner was released from prison and placed on parole. On
 13 December 21, 2022, petitioner was discharged from parole, and is no longer in custody
 14 on the underlying judgment being challenged in this federal habeas action. However,
 15 because petitioner filed his federal petition while he was in custody on the underlying
 16 judgment being challenged, his release from custody during the pendency of his federal
 17 proceeding does not deprive this Court of jurisdiction over the petition, because of the
 18 presumed “continuing collateral consequences” of the underlying state judgment.
 19 *Spencer v. Kemna*, 523 U.S. 1, 7-8 (1998).
- 20 4. In light of the above stipulated facts and legal authorities, Mr. Tamor has decided that
 21 his motion to withdraw as counsel is moot, and he hereby retracts the motion to
 22 withdraw (Dkt. No. 211).

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1 **IT IS SO AGREED AND STIPULATED.**

2 Dated: November 17, 2025

Respectfully submitted,

3 ROB BONTA
4 Attorney General of California
5 GREGORY A. OTT
6 Deputy Attorney General

7 */s/ Michele J. Swanson*
8 MICHELE J. SWANSON
9 Supervising Deputy Attorney General
10 *Attorneys for Respondent*

11 Dated: November 17, 2025

Respectfully submitted,

12 */s/ Richard Tamor*
13 RICHARD TAMOR
14 Attorney at Law
15 *Attorney for Petitioner*

16 **[PROPOSED] ORDER**

17 **FOR GOOD CAUSE SHOWN, IT IS ORDERED THAT:**

18 The Court accepts the above joint statement and stipulation of the parties, and finds that
19 the Court retains jurisdiction over this federal habeas proceeding for the reasons set forth by the
20 parties. The parties should continue to follow the relevant schedule set forth by the Court in its
21 order dated November 13, 2025 (Dkt. No. 217). Specifically, the parties should proceed to follow
22 paragraphs 3, 4(a), 5(a), 6 of that order.

23 DATED: **November 18, 2025**

24 
25 The Honorable William H. Alsup
26 United States District Judge